

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America

v.

Yangyang Zhou

Case No. 3:19-MJ-53

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 12/18/2015 in the county of Lane in the
District of Oregon, the defendant(s) violated:

Code Section

13 U.S.C. § 305

Offense Description

submitting false or misleading information on export declaration

This criminal complaint is based on these facts:

See attached Affidavit of Special Agent Thomas A. Duffy

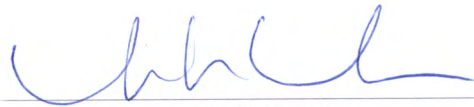
☒ Continued on the attached sheet.


Complainant's signature

Thomas A. Duffy, Special Agent, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: Mar. 22, 2019


Judge's signature

City and state: Portland, Oregon

Hon. Youlee Yim You, U.S. Magistrate Judge

Printed name and title

DISTRICT OF OREGON, ss: AFFIDAVIT OF THOMAS A. DUFFY

Affidavit in Support of Criminal Complaint

I, Thomas A. Duffy, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent (SA) with Homeland Security Investigations (HSI), within Immigration and Customs Enforcement (ICE), in the Department of Homeland Security (DHS), and have been so employed since July 2010. I am currently assigned to a fraud group in Portland, Oregon, and, in that capacity, I investigate criminal financial activity such as currency structuring, money laundering, bank fraud, wire fraud, and intellectual property rights violations. Prior to this assignment, I was assigned as a Task Force Officer (TFO) to the Federal Bureau of Investigation, (FBI) charged with investigating transnational organized crime. I am a graduate of the Criminal Investigator Training Program and the ICE Special Agent Training Program at the Federal Law Enforcement Training Center. I have received training in interviewing techniques, arrest procedures, search warrant applications, the execution of searches and seizures, and various other criminal laws and procedures. I have attended training courses sponsored by ICE, the Department of Justice, and other law enforcement agencies, which focused on the investigation of money laundering violations and other financial crimes. Finally, I have completed the Intellectual Property and Trade Enforcement Security course sponsored by the Intellectual Property Rights Center, which focuses on investigations involving commercial trade fraud and intellectual property rights violations.

2. This affidavit is submitted in support of a Criminal Complaint alleging that, while in the District of Oregon, Yangyang Zhou committed violations of Title 13, United States Code, Sections 305 (false or misleading information on export declaration).

3. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. The facts set forth in this affidavit are based on my own personal knowledge, knowledge obtained from other individuals during my participation in this investigation, including other law enforcement officers, interviews of witnesses, a review of records related to this investigation, communications with others who have knowledge of the events and circumstances described herein, and information gained through my training and experience.

Applicable Law

4. Title 13 U.S.C. § 305 provides, in relevant part: “Any person who knowingly fails to file or knowingly submits false or misleading information through the Shippers Export Declaration (SED) or the Automated Export System (AES) shall be subject to a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.”

Statement of Probable Cause

5. In April 2017, HSI Portland opened a criminal investigation into the importation of counterfeit goods based on information received from U.S. Customs and Border Protection (CBP) regarding the seizure of suspicious shipments of cellular telephones bearing Apple, Inc. (hereinafter “Apple”) markings and distinctive design features, but which appeared to be counterfeit based on shipping methods and packaging. As a result of training provided by Apple, I am aware of an ongoing scheme to defraud in which individuals submit counterfeit Apple iPhones to Apple as part of a false and fraudulent warranty claim. The scheme is perpetrated by an individual who submits a counterfeit iPhone that will not power on, and receives a new and/or factory refurbished officially licensed iPhone in exchange for the non-working phone through Apple’s warranty and repair process. This is done online and through

the mail. The submitter then ships the legitimate iPhone to a broker or organizer, often located overseas, who sells the replacement iPhone—typically for hundreds of dollars—and returns a portion of the proceeds to the person who submitted the fraudulent warranty claim. As part of this particular investigation, CBP in Portland, Oregon, has seized more than five shipments originating from China and imported from Hong Kong containing iPhones that have been declared counterfeit by the trademark holder, Apple. During the course of this investigation, Yangyang Zhou has been identified as the addressee of counterfeit Apple iPhones imported from China and as a person who is receiving the fraudulently requested warranty replacement phones from Apple. Zhou is a Chinese national, who is lawfully present in the U.S. on an F-1 student visa and completing studies in engineering at Oregon State University.

6. Business records provided by Apple show 16 total warranty returns in Yangyang Zhou's name with his residence as his mailing address. Apple records also show over 200 total iPhone warranty claims using the name Yangyang Zhou or other similar derivations from other mailing addresses associated with Zhou's name.

7. United States Customs and Border Protection has seized three international shipments of Apple iPhones, totaling 95 phones, en route to Yangyang Zhou. The seized iPhones have been verified as counterfeits by the trademark holder, Apple. Notices of the seizures by CBP were sent to Zhou, including one notice sent to his residence.

8. In March 2018, HSI Portland executed a lawful search warrant at the residence of Quan Jiang, a neighbor and criminal associate of Zhou's. During the search, law enforcement officers located over 300 counterfeit iPhones, shipping records, and warranty submission records. Law enforcement officers also located multiple boxes that had been addressed to Yangyang Zhou at four different mailbox facilities in the State of Washington. The shipper,

shipping company, origination, and declared contents as phones for repair on these boxes were consistent with other international shipments of counterfeit iPhones intercepted in this investigation.

9. During the course of the investigation, I have found at least four different mailboxes associated with Zhou's name, identification documents, and residential address. In March 2018, I lawfully seized an international package from one of the mailboxes putatively leased by Zhou, and it contained 25 counterfeit iPhones.

10. On or about June 30, 2017, Apple, through its legal counsel, Kilpatrick and Townsend, sent a cease-and-desist (C&D) letter to Jiang via overnight mail. The letter formally placed Jiang on notice that he was importing counterfeit Apple products. On or about July 19, 2017, Apple, through its legal counsel, Kilpatrick and Townsend, sent a second C&D letter to Jiang via overnight mail as Jiang did not respond to the first notice. Both C&D letters were sent to Jiang at Zhou's residential residence, which is the address associated with the CBP seizure (2017-2904-100112-01) that had initiated the correspondence.

11. On August 18, 2018, Zhou was departing for China from San Francisco International Airport (SFO). Customs and Border Protection Officers and HSI Special Agents conducted an outbound inspection of Zhou and his luggage. Three electronic devices were found in his possession. I observed that one of the Apple iPhones found in Zhou's possession (Apple iPhone SN F2LLWF026GRWV) was in like-new condition and still in a factory box. Based on my training and experience, I recognized that the box was the type used by Apple during the warranty-replacement process. I conducted a telephonic interview with Mr. Adrian Punderson, a brand protection specialist contracted by Apple. Mr. Punderson advised that the telephone was part of warranty claim submitted in approximately April 2018 for a customer

named “Apache Helicopter.” In September 2018, during a video-recorded consensual interview, Zhou stated that he received the brand new phone from Jiang as payment for a debt.

12. I utilized HSI’s customs authorities to conduct a border search of the contents of the other two electronic devices found in Zhou’s possession at SFO. On one of the cellular phones I observed photographs of Apple products and shipping materials.

13. Specifically, I observed a photograph of approximately 60 white boxes marked with Apple product SKUs and codes (see Photograph 1).



Photograph 1

14. I also observed a photograph showing approximately seven cardboard shipping boxes with the labels and markings used by Apple to return phones that have been submitted for warranty claims but rejected for being counterfeit or otherwise out of warranty, as well as a pile of approximately 24 cardboard shipping boxes with green labels and markings used by Apple to ship genuine replacement phones in satisfaction of warranty claims (see Photograph 2).



Photograph 2

15. I also observed photographs of international shipping documents on the same telephone.

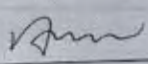
16. Specifically, I observed a photograph of a commercial invoice for DHL airway bill # 8938746736 dated December 21, 2015. The document named the putative exporter of the subject parcel as “Fangkai Zheng” at 3108 SE Everglade St., Corvallis, Oregon. (I have learned during my investigation that Zheng is another Chinese national and an associate of Jiang’s and

Zhou's.) The document listed the description of merchandise as 25 "used" phones with a purported value of \$30 per phone, for a total declared value of \$750. The document is signed and dated 12/18/2015. (See Photograph 3.)

Commercial Invoice

Shipper/Exporter: Fengkai Zheng 3108 SE Everglade St Corvallis, OR 97333 UNITED STATES		Invoice Bill Number: 8936745735	
Receiver/Consignee: SUN LIGHT COMMUNICATIONS LIMITED RM. L10 FLOOR WINNER FACTORY BLDG. 55 HUNG TO ROAD KWUN TONG HONG KONG, HONG KONG LIN HONG-ZHONG 85268442448		Export Date (dd/mm/yyyy): 21 Dec 2015	
Receiver Tax ID/VAT#		Weight: 9.98 (kg) 22 (lb)	
Line Description of Merchandise HTS#		Receiver Reference: Shipper Reference:	
1	USED PHONE GRADE B+	8517700000	
Package Marks:		Country of Ultimate Destination: HONG KONG	
Shipment Comments:		Exporting Carrier: DHL Corporation	
Terms of Trade:		Country of Origin Quantity Unit Unit Value Line Total	
		CHINA	25 EA \$30.000 US\$750.00
		Misc. Charges:	
		Invoice Total: US\$750.00	

These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.


 Signature of Authorized Person

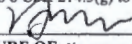
Signer Name
 Signer Title
 12/18/2015
 Date

Photograph 3

The signature on this document appears to match Zhou's signature five weeks later on his DHS Form I-20. (See Photograph 4.)

STUDENT ATTESTATION

I have read and agreed to comply with the terms and conditions of my admission and those of any extension of stay. I certify that all information provided on this form refers specifically to me and is true and correct to the best of my knowledge. I certify that I seek to enter or remain in the United States temporarily, and solely for the purpose of pursuing a full program of study at the school named above. I also authorize the named school to release any information from my records needed by DHS pursuant to 8 CFR 214.3(g) to determine my nonimmigrant status. **Parent or guardian, and student, must sign if student is under 18.**

X		01/25/16
SIGNATURE OF: Yangyang Zhou		DATE
	X	
NAME OF PARENT OR GUARDIAN	SIGNATURE	ADDRESS (city/state or province/country) DATE

Photograph 4

17. I also observed a photograph of what appears to be a computer monitor showing tracking information for the same DHL airway bill, confirming that the package had been delivered in Hong Kong. (See Photograph 5.)

Track DHL Express Shipments

Here's the fastest way to check the status of your shipment. No need to call Customer Service – our online results give you real-time, detailed pro
shipment speeds through the DHL network.

Result Summary

<input checked="" type="checkbox"/> Waybill: 8938746736 Signed for by: LAW Get Signature Proof of Delivery		Monday, December 28, 2015 at 15:59 Origin Service Area: PORTLAND, OR - CORVALLIS - USA Destination Service Area: HONG KONG - HONG KONG - HONG KONG		<input type="checkbox"/> Print
Monday, December 28, 2015		Location	Time	Piece
14	Delivered - Signed for by: LAW	HONG KONG	15:59	<input checked="" type="checkbox"/> 1 Piece
13	Delivery attempted - consignee premises closed	HONG KONG - HONG KONG	10:49	<input checked="" type="checkbox"/> 1 Piece
Saturday, December 26, 2015		Location	Time	Piece
12	Arrived at Delivery Facility in HONG KONG - HONG KONG	HONG KONG - HONG KONG	04:25	<input checked="" type="checkbox"/> 1 Piece
11	Departed Facility in HONG KONG - HONG KONG	HONG KONG - HONG KONG	00:16	<input checked="" type="checkbox"/> 1 Piece
10	Processed at HONG KONG - HONG KONG	HONG KONG - HONG KONG	00:16	<input checked="" type="checkbox"/> 1 Piece
Friday, December 25, 2015		Location	Time	Piece
9	Clearance processing complete at HONG KONG - HONG KONG	HONG KONG - HONG KONG	17:53	<input checked="" type="checkbox"/> 1 Piece
8	Arrived at Sort Facility HONG KONG - HONG KONG	HONG KONG - HONG KONG	16:13	<input checked="" type="checkbox"/> 1 Piece
7	Customs status updated	HONG KONG - HONG KONG	06:02	
Thursday, December 24, 2015		Location	Time	Piece
6	Departed Facility in CINCINNATI HUB - USA	CINCINNATI HUB OH - USA	04:29	<input checked="" type="checkbox"/> 1 Piece
5	Processed at CINCINNATI HUB - USA	CINCINNATI HUB OH - USA	04:00	<input checked="" type="checkbox"/> 1 Piece

Photograph 5

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18. On the same cellular telephone I also observed a photograph of a commercial invoice for DHL airway bill # 1450040362, which similarly identified the exporter as “Fangkai Zheng” of 3108 SE Everglade St., Corvallis, Oregon. The document listed the invoice as 30 “used” phones with a declared value of \$30 per phone, for a total value of \$900. (See Photograph 6.)

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Commercial Invoice

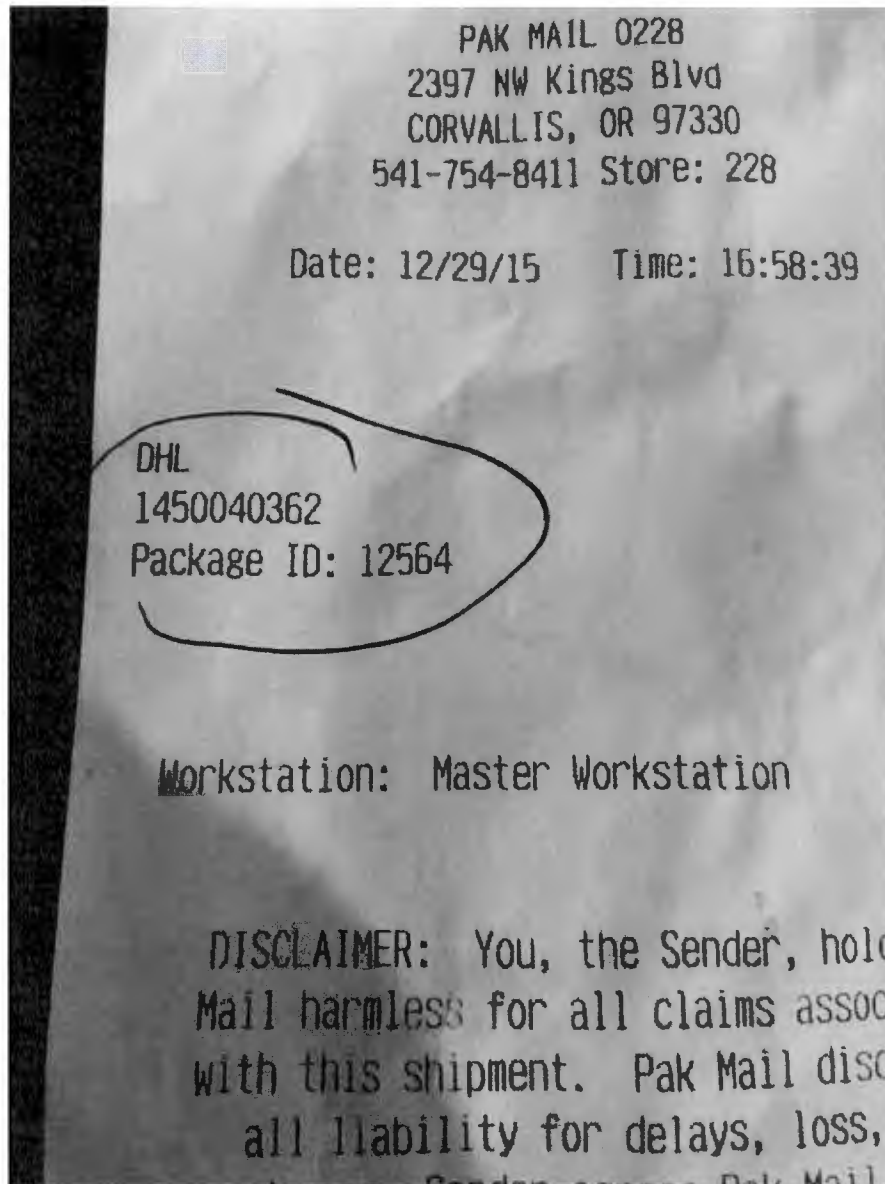
Shipper/Exporter: Fangkai Zheng 3108 SE Everglade St Corvallis, OR 97333 UNITED STATES		Airway Bill Number: 1450040362					
		Export Date (dd/mm/yyyy): 29/Dec/2015					
		Weight: 9.98 (Kg) 22 (lb)					
Receiver/Consignee: SUN LIGHT COMMUNICATIONS LIMITED RM. L10 FLOOR WINNER FACTORY BLDG. 55 HUNG TO ROAD KWUN TONG HONG KONG, HONG KONG LIN HONG-ZHONG 85269442445		Receiver Reference:	Shipper Reference:				
		Country of Ultimate Destination: HONG KONG					
		Exporting Carrier: DHL Corporation					
Receiver Tax ID/VAT#		Terms of Trade:					
Line	Description of Merchandise	HTS#	Country of Origin	Quantity	Unit	Unit Value	Line Total
1	USED PHONE GRADE B+	8517700000	CHINA	30	EA	\$30.000	US\$ 900.00
Package Marks:		Misc. Charges:					
Shipment Comments:		Invoice Total:				US\$ 900.00	

These commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

Photograph 6

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19. Finally, I observed a photograph of a receipt from a UPS store located at 2397 NW Kings Blvd, Corvallis, Oregon, for the same airway bill, which showed the package had been tendered for shipment on December 29, 2015. (See Photograph 7.)



Photograph 7

20. In my experience, shippers often take digital photographs of documents relating to valuable parcels both for recordkeeping and to share with the intended recipients of the subject

parcels. I therefore believe that Zhou shipped the China-bound parcels described in DHL airway bill numbers 8938746736 and 1450040362 and submitted the accompanying paperwork.


21. Due to the high cost of shipping dozens of cellular phones internationally, I do not believe the inoperable phones rejected by Apple during this scheme were in the above-described parcels. I therefore believe Zhou, alone or with others, shipped only the operational replacement phones fraudulently obtained from Apple in those packages.

22. Based on my conversations with representatives from Apple, I understand the approximate resale value of each replacement phone issued by Apple in this scheme was \$600—not the \$30 declared on the airway bills captured on Zhou's cellular telephone.

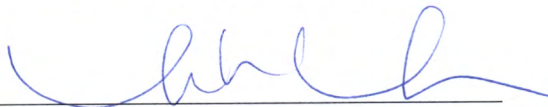
Conclusion

23. Based on the foregoing, I have probable cause to believe, and I do believe, that Yangyang Zhou has committed violations of 13 U.S.C. § 305 (Penalties for Unlawful Export Information).

24. Prior to being submitted to the Court, this affidavit, the accompanying Complaint, and the requested warrant were all reviewed by Assistant United States Attorney Ryan Bounds, who advised me that in his opinion the affidavit and application are legally and factually sufficient to establish probable cause to support the issuance of the requested warrant.


THOMAS A. DUFFY
Special Agent, Homeland Security Investigations

Subscribed and sworn to before me this 22 day of March 2019.


HON. YOULEE YIM YOU
United States Magistrate Judge